

EXHIBIT “B”

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13 DEC 30 PM 4:23

KING COUNTY
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CASE NUMBER: 13-2-42758-3 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JOYCE SCHWEICKERT, a single person,)

Plaintiff,)

vs.)

CHAD HAROLD RUDKIN and ELIZABETH)
RUDKIN, husband and wife and the marital)
community composed thereof, DOUGLAS)
LOWER and JANE DOE LOWER, husband)
and wife and the marital community composed)
thereof, JOHN DU WORS and JANE DOE)
DU WORS, husband and wife and the marital)
community composed thereof, NEWMAN &)
NEWMAN, ATTORNEYS AT LAW, LLP, a)
Washington limited partnership,)

Defendants.)

No.

**PLAINTIFF'S COMPLAINT FOR
FRAUD, NEGLIGENT
MISREPRESENTATION, UNJUST
ENRICHMENT, CONVERSION, AND
CONSTRUCTIVE TRUST**

Joyce Schweickert, by and through her attorneys, T. Jeffrey Keane and the Keane Law
Offices, for her complaint against defendants alleges as follows:

I. PARTIES

1.1 Plaintiff Joyce Schweickert is a single person who at all material times has
been a resident of Hunts Point, King County, Washington.

1.2 Defendants Chad Rudkin and Elizabeth Rudkin are husband and wife. All acts
herein which were performed by either were performed for their individual benefit and for the

1 benefit of their marital community. Upon information and belief, plaintiff alleges that at all
2 material times they have been residents of King County, Washington.

3 **1.4** Defendants Douglas Lower and Jane Doe Lower are husband and wife. All
4 acts herein which were performed by either were performed for their individual benefit and
5 for the benefit of their marital community. Upon information and belief, plaintiff alleges that
6 at all material times they have been residents of King County, Washington.

7 **1.5** Defendants John Du Wors and Jane Doe Du Wors are husband and wife. All
8 acts herein which were performed by either were performed for their individual benefit and
9 for the benefit of their marital community. Upon information and belief, plaintiff alleges that
10 at all material times they have been residents of King County, Washington.

11 **1.6** Defendant Newman & Newman, Attorneys at Law, LLP, (hereinafter
12 “Newman”) is a Washington limited liability partnership, which conducts business in King
13 County, Washington.

14 **II. VENUE AND JURISDICTION**

15 **2.1** This Court has jurisdiction over the parties and subject matter in the case under
16 RCW 2.08.010.

17 **2.2** The tortious acts giving rise to this lawsuit occurred in Seattle, King County,
18 Washington. Venue is proper in King County, Washington.

19 **III. FACTS**

20 **3.1** Hunts Point Ventures, Inc. (hereinafter “HPV”) is a Washington corporation,
21 which was incorporated on May 5, 2010 by Stephen Schweickert.

22 **3.2** Upon its incorporation HPV’s sole directors were Stephen Schweickert and
23 Joyce Schweickert. Joyce Schweickert purchased 50% of the stock in the company for
24 \$200,000.00, which represented the entirety of HPV’s initial working capital.

1 **3.3** Stephen Schweickert, Douglas Lower, Chad Rudkin, and John Du Wors, each
2 represented to plaintiff that the purported business purpose of HPV was to engage in the
3 business of “monetizing” patents by prosecuting patent infringement claims for profit.

4 **3.4** However, the true purpose of HPV was a scheme by defendants to divert
5 HPV’s assets for their personal financial gain.

6 **3.5** On May 5, 2010, Stephen Schweickert opened a corporate bank account for
7 HPV at Commerce Bank.

8 **3.6** On May 6, 2010 plaintiff wired \$180,000.00 into this account.

9 **3.7** The money provided by plaintiff was quickly transferred from HPV to Stephen
10 Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and Newman or used for their
11 personal gain.

12 **3.8** Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and
13 Newman each acted in concert to create the appearance that HPV was engaged in a legitimate
14 business, but in truth they were systematically looting the corporation’s assets.

15 **3.9** HPV never operated as a legitimate business entity. Instead, Stephen
16 Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and Newman utilized the
17 corporation to solicit investment capital from plaintiff, and others, which they thereafter paid
18 to themselves without regard for advancing the purported legitimate goals of HPV.

19 **3.10** After Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and
20 Newman depleted the initial capital of the company, they began seeking additional
21 investments in HPV from others.

22 **3.11** On October 8, 2010, HPV had a total of \$10,937.56 in its bank account.

23 **3.12** On October 15, 2010, Sandy Hoover invested \$100,000.00. This additional
24 capital was needed since Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors,
25 and Newman had already improperly consumed the money Ms. Schweickert paid to HPV.

1 **3.13** Shortly after Sandy Hoover invested in HPV, the corporation purported to
2 “redeem” Joyce Schweickert’s shares in exchange for “indemnity” from claims against HPV
3 that it provided to Ms. Schweickert.

4 **3.14** John Du Wors and Newman created an “indemnity” agreement which Stephen
5 Schweickert presented to plaintiff. A copy of this agreement is attached hereto as Exhibit A.

6 **3.15** The “indemnity” had no economic or legal value to plaintiff whatsoever.
7 Defendants knew that HPV’s Articles of Incorporation already provided “indemnity” to
8 plaintiff.

9 **3.16** John Du Wors and Stephen Schweickert knew the offer to purchase plaintiff’s
10 interest in HPV for valuable “indemnity” was untrue when made. Indeed, the “indemnity”
11 offered to plaintiff lacked any economic or legal value.

12 **3.17** Plaintiff relied upon the misrepresentations made by Stephen Schweickert,
13 John Du Wors, and Newman, and agreed HPV’s offer to “redeem” her HPV shares for
14 “indemnity” against claims. The “indemnity” she received from HPV was, in fact,
15 “indemnity” that she was already entitled to under HPV’s corporate bylaws.

16 **3.18** HPV’s purported redemption of plaintiff’s shares was further improper and
17 unlawful, because HPV never “...deposited with a bank, trust company, or other financial
18 institution under an irrevocable obligation to pay the holders the redemption price on
19 surrender of the shares” as require by RCW 23B.06.030(3). Indeed, HPV attempted to
20 “redeem” plaintiff’s shares for no money or consideration of any kind.

21 **3.19** HPV’s redemption of plaintiff’s shares was part of Stephen Schweickert,
22 Douglas Lower, Chad Rudkin, John Du Wors, and Newman’s scheme to remove her as a
23 director in order to attract additional investment and defraud additional investors.

24 **3.20** The \$100,000.00 invested by Sandy Hoover was quickly looted by Stephen
25 Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and Newman.

1 **3.21** Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and
2 Newman sought additional investors for HPV when its bank account balance reached
3 \$2,882.80 in April of 2011.

4 **3.22** Stephen Schweickert John Du Wors, and Newman convinced Jennifer
5 Schweickert to loan HPV \$200,000.00 by representing to Jennifer Schweickert that HPV was
6 legitimate business enterprise.

7 **3.23** Jennifer Schweickert relied upon these representations and on April 29, 2011,
8 Jennifer Schweickert loaned HPV \$200,000.00.

9 **3.24** The same day Ms. Schweickert's funds were received by HPV, \$117,652.57
10 was wired from HPV's bank account to the Newman firm's bank account.

11 **3.25** The funds loaned to HPV by Jennifer Schweickert were transferred from
12 HPV's bank to Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and
13 Newman, or to others for their benefit, and were almost completely exhausted within three
14 months.

15 **3.26** By July, 2011, HPV's Commerce Bank Account was virtually empty.

16 **3.27** Commerce Bank's records demonstrate that Newman and/or John Du Wors
17 obtained \$333,410.62 from HPV; Douglas Lower obtained \$49,500.00; Chad Rudkin
18 obtained \$16,500.00; and Stephen Schweickert obtained \$16,814.07. Accordingly, of the
19 \$500,000.00 provided to HPV by Joyce Schweickert, Sandy Hoover, and Jennifer
20 Schweickert, Stephen Schweickert, Douglas Lower, Chad Rudkin, John Du Wors, and
21 Newman received \$416,224.69 from the corporation.

22 **3.28** There is no evidence that the actions of Stephen Schweickert, Douglas Lower,
23 Chad Rudkin, John Du Wors, and Newman, or the payments they received, ever advanced
24 any legitimate business purpose of HPV. Indeed, throughout HPV's corporate existence it
25 never engaged in any legitimate business activity. All of the purported business activity

1 engaged in by HPV was for the sole purpose of maintaining the appearance of propriety in
2 order to solicit additional capital from other investors.

3 **3.29** After looting HPV, its directors, Chad Rudkin and Elizabeth Rudkin, initiated
4 a Receivership under RCW 7.08 *et seq.*, which purported to assign the assets of HPV for the
5 benefit of its creditors.

6 **3.30** Shortly before initiating an “Assignment for the Benefit of Creditors” for HPV,
7 the corporation provided security to Sandy Hoover for the money she provided two years
8 earlier.

9 **3.31** Sandy Hoover is the mother of Elizabeth Rudkin.

10 **3.32** On October 9, 2013, a UCC-1 was filed purporting to provide Sandy Hoover a
11 security interest in “all assets” of HPV.

12 **3.33** This UCC-1 filing was made just prior to HPV’s directors, Chad Rudkin and
13 Elizabeth Rudkin, filing a petition for HPV under RCW 7.08 *et seq.*

14 **3.34** The UCC-1 was clearly provided to HPV’s corporate directors’ mother in
15 order to further “loot” the corporation.

16 **3.35** Virtually all of HPV’s assets have been transferred to Stephen Schweickert,
17 Douglas Lower, Chad Rudkin, John Du Wors, and Newman, or transferred to third-parties for
18 defendants’ personal benefit.

19 **IV. CLAIMS**

20 **4.1 FRAUD**

21 **4.1.1** Plaintiff realleges as if restated paragraphs 1.1 to 3.35, above.

22 **4.1.2** By making material misrepresentations which were false, known to be false,
23 made for the purpose of inducing plaintiff to act, which were fraudulent when made, and
24 caused harm to plaintiff, defendants have committed common law fraud upon plaintiffs.
25

1 **4.1.3** Defendants, having committed fraud upon plaintiff, are liable to plaintiff for
2 any and all consequent harm plaintiff has sustained, including all economic and other losses
3 sustained or to be sustained as a result of defendants' misconduct.

4 **4.2 NEGLIGENT MISREPRESENTATION**

5 **4.2.1** Plaintiff realleges as if restated paragraphs 1.1 to 4.1.3, above.

6 **4.2.2** Defendants provided false information to plaintiff, that she had a right to rely
7 upon, and that she did, in fact, rely upon to her detriment. These false representations made
8 by defendants include, but are not limited, representations that HPV was a legitimate business
9 entity, representations that money plaintiff invested in HPV was being utilized for legitimate
10 business purposes, representations that HPV was engaged in a legitimate business enterprise,
11 and representations that plaintiff's shares of HPV were being "redeemed" for good and
12 valuable consideration.

13 **4.2.3** The above and foregoing conduct of defendants constitutes a negligent
14 misrepresentation and plaintiff is entitled to damages in an amount to be proven at trial.

15 **4.3 UNJUST ENRICHMENT**

16 **4.3.1** Plaintiff realleges as if restated paragraphs 1.1 to 4.2.3, above.

17 **4.3.2** For her first equitable claim, plaintiff alleges that she enters a court of equity
18 with clean hands, having discharged any and all predicate acts required of her to perfect what
19 purported to be a legitimate business transaction between herself, and defendants.

20 **4.3.3** By promising the advance a legitimate business, for which plaintiff paid, and
21 failing to advance any legitimate business purpose, defendants have been unjustly enriched in
22 the amount of the total amount of payments made by plaintiff.

23 **4.3.4** By misrepresenting that plaintiff's HPV shares were properly "redeemed" for
24 good and valuable consideration, defendants have been unjustly enriched.

1 **4.3.5** Due to defendants' unjust enrichment, plaintiff is entitled to the return of all
2 money paid to HPV, as well as compensation for any and all harm she has sustained as a
3 result.

4 **4.4 CONVERSION**

5 **4.4.1** Plaintiff realleges as if restated paragraphs 1.1 to 4.3.5, above.

6 **4.4.2** Defendants wrongfully looted the assets of HPV for personal gain and the gain
7 of third-parties.

8 **4.4.3** Defendants misrepresented to plaintiff that HPV had "redeemed" her shares of
9 the corporation for no compensation of any kind.

10 **4.4.4** Defendants wrongful conversion of HPV's property for their own personal use
11 has resulted in the complete depletion of HPV's corporate assets, causing damage to plaintiff
12 in an amount to be proven at trial.

13 **4.5 CONSTRUCTIVE TRUST**

14 **4.5.1** Plaintiff realleges, as if restated, paragraphs 1.1 to 4.4.4, above.

15 **4.4.2** In order to restore the parties to their original positions, in light of defendants'
16 conversion of HPV's assets, plaintiff hereby requests that the Court impose and enter upon
17 any and all property of defendants a constructive trust, including but not limited to
18 defendants' bank accounts, business assets, and all real property owned by defendants.

19 **4.4.3** To permit defendants to otherwise retain and preserve proceeds of any kind
20 from their looting of HPV would be an unjust enrichment of defendants.

21 **4.4.4** In imposing such constructive trust upon any and all assets of defendants,
22 plaintiff requests that the Court use its equitable powers to impose such trust, and to order
23 transfer of all such assets so secured to plaintiff, in whole or partial satisfaction of the debt
24 owed to, but unpaid to, plaintiff. Such relief would be fit and proper since plaintiff is the
25 party who should be truly and equitably entitled to such monies or assets.

V. PRAYER FOR RELIEF

WHEREFORE, having stated her claims, plaintiff prays for the following relief, jointly and severally, against all parties defendant:

5.1 For a judgment in her favor, against all defendants for the damages sustained by plaintiff, which is an amount not less than \$200,000.00.

5.2 For an award pursuant of attorneys' fees and costs incurred in this action and in any other efforts to recover the funds misappropriated by defendants.

5.3 For an award of prejudgment interest for all costs which are awarded at trial;

5.4 For an award of such punitive damages as the court, in its judgment, should be awarded in order to restrain and punish defendants for the wrongful acts described herein;

5.5 For imposition of a constructive trust on defendants, for the benefit of plaintiff, with regard to the funds defendants obtained from plaintiff by fraud; and

5.6 For such other relief as the court deems fit and proper.

DATED this 30th day of December, 2013.

KEANE LAW OFFICES

/s/ T. Jeffrey Keane
T. Jeffrey Keane, WSBA #8465
Attorney for Plaintiff